IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL WRIT PETITION NO.967 OF 2005

Ajay Pandit @ Dr.Jagdish
Dahyabhai Patel : Petitioner.

versus

The State of Maharahstra & Anr. : Respondents.

Ms.Sarojini Upadhya Advocate appointed for the petitioner.
Mr.V.B.Konde-Deshmukh, APP, for the State.

CORAM : D.G.DESHPANDE
V.K.TAHILRAMANI JJ.
DATED : APRIL 05, 2006.

P.C.

1. Rule, returnable forthwith. Accused Ajay Pandit @ Dr.Jagdish Dahyabhai Patel has filed this petition for furlough leave. This petition was on board on 28th March 2006. On that day we order to release the petitioner on furlough leave

by allowing the petition. But before the said order was typed & signed, we noticed that the Division Bench of this Court (comprising of D.G.Deshpande and V.M.Kanade, JJ), in the Criminal Appeal Nos.46 of 2000 and 789 of 2001, has awarded death sentence to this accused Ajay Pandit @ Dr.Jagdish Dahyabhai Patel. Therefore, the matter is listed today on board afresh.

2. Admittedly, when the death sentence is awarded by the Division Bench of this court on 22nd December 2005, it would not have been proper to grant furlough leave. While granting furlough on 28th March 2006, the advocate smt.Sarojini Upadhya, appointed by us to represent the accused, was not supposed to know about the order of enhancement of death sentence. Therefore, though the said order was passed in open court on 28th March 2006 releasing the accused on furlough leave, the same is not typed and signed, hence has no effect. Therefore, in view of this position, the petition is rejected. Rule is discharged. Office to communicate this order to the accused/petitioner as well as the concerned Jail authority immediately.

[D.G.DESHPANDE,J]

[V.K.TAHILRAMANI,J]